



**[6450-01-P]**

**DEPARTMENT OF ENERGY**

**10 CFR Part 431**

**[Docket Number EERE–2013–BT–STD–0030]**

**RIN: 1904-AD01**

**Energy Conservation Program for Certain Commercial and Industrial Equipment:  
Proposed Determination of Natural Draft Commercial Packaged Boilers as Covered  
Industrial Equipment**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Proposed determination of coverage; withdrawal.

**SUMMARY:** The U.S. Department of Energy (DOE) withdraws its August 13, 2013, notice of proposed determination that natural draft commercial packaged boilers meet the criteria for covered equipment under Part A-1 of Title III of the Energy Policy and Conservation Act of 1975 (EPCA), as amended. 78 FR 49202. DOE is taking this action after consideration of comments received in response to the notice of proposed determination and other relevant rulemakings that indicate a common and long-standing

understanding from interested parties that natural draft commercial packaged boilers are and have been covered equipment under part A-1 of Title III of EPCA.

**DATES:** The proposed determination is withdrawn [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

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## **I. Authority**

Title III, Part C<sup>1</sup> of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94-163, as amended, (42 U.S.C. 6311-6317, as codified), added by Pub. L. 95-619, Title IV, §441(a), established the Energy Conservation Program for Certain Industrial Equipment, which includes commercial packaged boilers.<sup>2</sup> In addition to specifying a list of covered commercial and industrial equipment, EPCA contains provisions that enable the Secretary of Energy to classify additional types of commercial and industrial equipment as covered equipment. (42 U.S.C. 6311(1)(L))

## **II. Background**

On August 13, 2013, the U.S. Department of Energy (DOE) published in the Federal Register a Notice of Proposed Determination (August 2013 NOPD) to clarify that natural draft commercial packaged boilers are covered equipment under EPCA. 78 FR 49202. Under EPCA, “the term ‘packaged boiler’ means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections.” (42 U.S.C. 6311(11)(B)) In the August 2013 NOPD, DOE sought to clarify its statutory authority to cover commercial packaged boilers that do not include mechanical draft equipment by proposing the following definition for natural draft commercial packaged boilers: the term “natural draft commercial packaged boiler means a commercial packaged boiler designed to operate with negative pressure in the firebox and in the flue connection created by a chimney or the height of the unit itself,

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<sup>1</sup> For editorial reasons, upon codification in the United States Code (U.S.C.), Part C was re-designated Part A-1.

<sup>2</sup> All references to EPCA in this document refer to the statute as amended through Energy Efficiency Improvement Act of 2015, Pub. L. 114-11 (April 30, 2015).

up to the draft control device. Such boilers do not require mechanical drafting equipment to vent combustion gases, but may include mechanical devices such as mechanical flue or stack dampers to limit the heat losses through the flue vent during off-cycle.” 78 FR 49203. DOE also requested public comment on the proposed determination of coverage and proposed definition.

In parallel, DOE initiated a rulemaking to amend the energy conservation standards for commercial packaged boilers. On September 3, 2013, DOE published a notice of public meeting in the Federal Register that announced the availability of the framework document. 78 FR 54197. Subsequently, on November 20, 2014, DOE published another notice of public meeting (November 2014 NOPM) in the Federal Register that announced the availability of the preliminary analysis technical support document. 79 FR 69066. Both notices requested public comment from interested parties about various aspects of the rulemakings.

### **III. Discussion**

DOE received several written comments that are relevant to the coverage determination of natural draft commercial packaged boilers in response both to the August 2013 NOPD and the November 2014 NOPM.

In response to the August 2013 NOPD, DOE received comments from the Air-Conditioning, Heating, and Refrigeration Institute (AHRI).

AHRI stated that the long time practices of both industry and DOE make clear that natural draft commercial packaged boilers are covered equipment subject to the efficiency standards established in accordance with EPCA, noting that the minimum efficiency standards specified for commercial boilers have been applied to all commercial packaged boiler models, natural draft or otherwise, for the past 20 years. AHRI further noted that the minimum efficiency standards specified for commercial boilers in American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE) Standard 90.1, “Energy Standard for Buildings Except Low-Rise Residential Buildings” (upon which the Federal standards are based) have been applied to all models since the first edition of the standard more than 35 years ago, and asserted that there should be no question that natural draft commercial packaged boilers are covered equipment subject to DOE’s efficiency standards. Finally, AHRI suggested that if it is necessary to prevent ambiguity in the definition, DOE simply edit the definition to clarify that a commercial packaged boiler is shipped with mechanical draft equipment only if required, which AHRI asserted reflects the proper reading that the definition covers all types of boilers. (AHRI, No. 7 at pp.1-2) <sup>3</sup>

In response to the November 2014 NOPM, DOE received comments from various interested parties, including AHRI and Raypak Inc. Raypak argued that the industry has recognized, and there should be no question, that natural draft boilers have been covered under EPCA for many years. (Raypak, No. 35 at p. 2) AHRI commented that the

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<sup>3</sup> A notation in the form “AHRI, No. 7 at pp. 1-2” identifies a written comment: (1) made by AHRI; (2) recorded as comment number 7 in the docket of this rulemaking (Docket No. EERE-2013- BT-STD-0030) and available for review at [www.regulations.gov](http://www.regulations.gov); and (3) which appears on pages 1 and 2 of comment number 7.

minimum efficiency standards specified for commercial packaged boilers in EPCA have been applied to all models including natural draft for the past 20 years. AHRI also restated its position from previous comments (discussed above) that there should be no question that natural draft commercial packaged boilers are covered equipment subject to DOE's standards. (AHRI, No. 37 at p. 2)

In summary, comments received from interested parties, both from the August 2013 NOPD and the November 2014 NOPM, support DOE's understanding that packaged boilers, as currently defined under EPCA, include natural draft packaged boilers. Therefore, DOE concludes that it is not necessary to publish a final coverage determination for natural draft commercial packaged boilers and is withdrawing its notice of proposed determination.

#### **IV. Approval of the Office of the Secretary**

The Secretary of Energy has approved publication of this withdrawal notice.

#### **List of Subjects in 10 CFR Part 431**

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

Issued in Washington, D.C., on August 14, 2015.

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